

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

City of Chicago,

Plaintiff,

v.

DoorDash, Inc. and Caviar, LLC,

Defendants.

Civil Action No. 1:21-cv-05162

Honorable Robert W. Gettleman
Magistrate Judge Jeffrey T. Gilbert

JOINT STATUS REPORT

Pursuant to this Court's orders dated December 23, 2022 (ECF No. 90) and December 19, 2022 (ECF No. 87) directing the parties to file a status report seven days after each rolling production deadline to provide information about the last rolling production, what has been produced to date in total, and what remains to be produced, the parties hereby file this Joint Status Report concerning the productions each party made on February 24, 2023.

I. Status of the City's Document Productions

A. Documents Produced by the City To Date

Thus far the City has produced 1,645 documents, totaling 9,539 pages, in rolling productions. The City's prior productions are described in more detail in the January 20 and February 10 joint status reports (ECF Nos. 96, 101).

The City's February 24 production contained 691 documents and 3,921 pages. These documents were gathered pursuant to the City's current custodial search protocol, and also

included one document from a known location. This production included documents responsive to the following requests:

- RFP No. 10 (complaints submitted to the City and the City’s responses thereto)
- RFP No. 26 (direct communications between the City and DoorDash)
- RFP No. 28 (correspondence with consumers who use the DoorDash platform)
- RFP No. 41 (documents related to BACP’s determination that DoorDash had violated the City’s laws)
- RFP No. 43 (internal and external correspondence relating to the “Chicago fee”)

The City also reviewed communications between certain City custodians and Illinois state government email domains. These emails were identified using the search terms for the company names and for meal delivery more generally (in response to RFP No. 36), but no documents were related to DoorDash or the meal delivery industry generally. RFP 36 is a subject of Defendants’ pending motion to compel, wherein Defendants are seeking broader searches from the City.

B. Remaining Documents to be Produced

In response to Defendants’ First Set of Discovery, the City is in the process of reviewing correspondence between certain Law Department and BACP employees and DoorDash employees (responsive to RFP No. 26). The majority of the responsive emails have been produced, but the City has added additional custodians pursuant to DoorDash’s request and based on its own review process. The City is also continuing to search for, review, and produce search results from City portals, including its 311 system, and email accounts to which complaints about DoorDash may have been submitted or through which the City may have corresponded with third parties about DoorDash (responsive to RFP Nos. 8, 10, 11, 24, 28, 35). Although the bulk of these materials have also already been collected, reviewed, and produced, the City is running additional searches and anticipates completing production of materials identified through these efforts by March 17,

2023. The City is also reviewing correspondence regarding the Fair Food and Retail Delivery Act (responsive to RFP No. 13) and anticipates that those materials will also be produced on March 17, 2023.

In response to Defendants' Second Set of Discovery, the City is in the process of searching for and reviewing documents issued by the City containing advice or guidance related to restaurant business practices and consumer education materials, to the extent they exist in known locations in BACP's Outreach division (RFP Nos. 47 and 48). We anticipate that the City can complete production of these materials by April 7, 2023.

I. Status of DoorDash's Document Productions

A. Documents Produced by DoorDash to Date

The City has served 56 Requests for Production, many of which contain multiple sub-parts, and 12 Interrogatories on DoorDash. Starting in August 2022, DoorDash began producing documents in response to the City's requests, and as of February 24, 2023, DoorDash has produced a total of 323 documents and 6,893 pages across nine productions. Some of these documents were identified in known non-custodial locations, some were produced through DoorDash's review of documents produced in related investigations and litigations, and three spreadsheets were created in order to respond to two of the City's requests for specific data.

These documents include:

- DoorDash's consumer-facing terms and conditions, responsive FAQ and support pages and blog posts, and other documents showing the appearance of certain pages on DoorDash's Marketplace, including numerous historical versions of these pages;
- Organizational charts from 2016-2022;
- Documents showing templates for employee performance reviews and performance metrics;
- Complaints and dispositive orders from related litigations and arbitrations;

- DoorDash's Merchant Terms of Service and Partner Code of Conduct;
- DoorDash's current document retention policy;
- Restaurant-facing documents regarding use of the DoorDash Marketplace and setting prices;
- Data responsive to the City's requests and relating to non-partner restaurants listed on DoorDash Marketplace dating back to 2014;
- Data responsive to the City's requests and relating to the number of daily visitors to DoorDash and Caviar webpages;
- Communications between the BACP and DoorDash;
- Articles regarding campaign donation practices for the City and Cohen Milstein;
- Retainer agreements between the City and Cohen Milstein;
- Articles regarding contingency fee agreements between private law firms and government entities;
- Additional documentation showing the factual basis for DoorDash's affirmative defenses;
- Documents that are otherwise responsive to the City's requests that were produced in previous related investigations and litigations.

These productions are responsive to more than two dozen of the City's requests, including but not limited to RFP Nos. 1-10, 16-17, 19-20, 25-26, 29-30, 32, 37, 45, 52, and 53-55 and Interrogatory No. 8. Most recently, on February 3, 2023, DoorDash made its ninth production of documents responsive to the City's Requests for Production, consisting of two spreadsheets created to respond to the City's Requests for Production Nos. 20 and 32.

B. Remaining Documents to be Produced

DoorDash continues to review for production documents produced in other related investigations and litigations and will endeavor to produce additional documents from these related investigations and litigations on March 17, 2023. DoorDash likewise continues to search for and collect non-custodial documents, including consumer complaints responsive to the City's requests. As to data requested by the City, DoorDash has already undertaken significant efforts to create

spreadsheets containing data responsive to the City's requests, even though the documents that the City requests do not exist and are not kept in the ordinary course of business, and continues to investigate whether additional data responsive to the City's requests exists and can be produced, including orders placed by consumers in Chicago and orders placed from non-partner restaurants in Chicago.

DoorDash expects that the bulk of its remaining document productions will take place via custodial productions. With the direction given at the Court's February 8, 2023 Status Conference, the parties are continuing to negotiate as to a search methodology for custodial productions for documents relating to the City's allegations as to fees charged to consumers, restaurant menu pricing, non-partner restaurants in Chicago, and Dasher pay. Given the parties' agreement on a custodial search methodology for documents relating to the City's allegations as to minimum amount promotional discounts, DoorDash has begun its review of those documents pursuant to the search terms, custodians, and time periods in Exhibit A of the January 26, 2023 Joint Status Report. Until the parties reach agreement on a search methodology for the remaining categories of allegations or one is entered by this Court, DoorDash expects that its productions will be limited in size, although it will make efforts to make productions on the rolling three-week timeline before an agreement is reached.

DATED: March 3, 2023

Respectfully submitted,

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